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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,968	02/02/2004	Mark S. Miller	21220/04180	9130

24024 7590 10/27/2006

CALFEE HALTER & GRISWOLD, LLP  
800 SUPERIOR AVENUE  
SUITE 1400  
CLEVELAND, OH 44114

EXAMINER

DETSCHER, MARISSA

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/769,968

Applicant(s)

MILLER ET AL.

Examiner

Marissa J. Detschel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-12 and 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11,12 and 15-28 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 3-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1. ☐ Certified copies of the priority documents have been received.
  - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see pages 7-9 in the Remarks section, filed August 18, 2006, with respect to the rejection(s) of claim(s) 1-28 under 35 U.S.C. 102(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 U.S.C. 101 as set forth below.

### ***Drawings***

The drawings were received on August 18, 2006. These drawings are accepted by the Examiner.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claim is directed to non-statutory subject matter.

The claim fails to include a physical transformation and/or a useful, concrete, and tangible result. Merely "processing said image data..." would not appear to be sufficient to constitute a tangible result, since the outcome of the "processing said image data..." step has not been used in a disclosed practical application nor made available in such a manner that its usefulness in a disclosed practical application can be realized. As such the claimed subject matter is not patent eligible. See OG Notices: 22 November 2005,

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"Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility".

Furthermore, Part b. *Practical Application the Produces a Useful, Concrete, and Tangible Result* under Section IV *Determine Whether the Claimed Invention Complies with the Subject Matter Eligibility Requirement of 35 U.S.C. Sec. 101* sentence 3 in the OG Notice from 22 November 2005 states 'In determining whether the claim is for a "practical application," the focus is not on whether the steps taken to achieve a particular result are useful, tangible, and concrete, but rather that the final result achieved by the claimed invention is "useful, tangible, and concrete."' The final result in claim 1 is the "processing the image data..." step.

The examiner acknowledges that the "processing the image data..." step is performed by a processor, which is disclosed in the other sets of claims present in the application. Specifically, claim 18 states that "the processor is operative to generate a signal indicative of a condition in which contaminants on the window surface will affect a scene image of the viewing system." The step of generating the signal is an example of a tangible result since the signal is generated and then used in a disclosed practical application to indicate a condition in which contaminants on the window will affect a scene image of the viewing system. Therefore, the examiner suggests incorporating this limitation as the final step of claim 1 after the "processing said image data..." step to overcome the 35 U.S.C. 101 issue.

***Allowable Subject Matter***

Claims 11, 12, and 15-28 are allowed.

Claims 3-10 are objected to as being dependent upon a rejected base claim rejected under 35 U.S.C. 101, but would be allowable if the base claim were rewritten to overcome the rejection under 35 U.S.C. 101.

The following is a statement of reasons for the indication of allowable subject matter:

As to claim 11, the prior art of record, taken alone or in combination, fails to disclose or render obvious a light source disposed to inject light edgewise into a window to cause the light to pass internally through the window from one window edge to the other window edge along an axis which intersects a viewing area of the window in an apparatus for detecting contaminants on an external surface of a window, in combination with the rest of the limitations of claim 11.

As to claim 21, the prior art of record, taken alone or in combination, fails to disclose or render obvious at least one light source disposed to inject light edgewise into a window to cause reflections of the injected light off of contaminants on the window surface in a viewing system, in combination with the rest of the limitations of claim 21.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa J. Detschel whose telephone number is 571-272-2716. The examiner can normally be reached on M-F 8:30am-5:00pm.

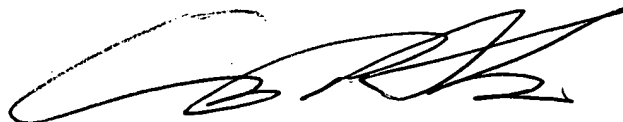
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on 571-272-2059. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD  
October 23, 2006

A handwritten signature in black ink, appearing to read 'A. Lee', with a large, sweeping initial 'A'.

**HWA (ANDREW) LEE  
PRIMARY EXAMINER**